THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :12523 of 2007

DATED:18-06-2007

BETWEEN:

Ghanshyam Das.

..... PETITIONER

AND

The Municipal Corporation of Hyderabad,
Rep., by its Assistant City Planner,
Circle No.V,
(Town Planning Section),
Khairatabad,
Hyderabad & 3 others.

.....RESPONDENTS

ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Municipal Administration appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the respondents 1 and 2 and their staff members dated 10-06-2007, threatening to demolish the mulgi covered by municipal Nos.8-3-168/6 & 3-8-168/7 and its upper floor portion No.8-3-168/11, situated at Erragada, Hyderabad, which are in possession, enjoyment, and occupation of the petitioner herein as a tenant, as illegal, arbitrary, and contrary to the spirit of the judgment of a Division Bench of this Court in W.P.No.6317 of 1996, dated 15-03-2001, reported in 2001(3) A.L.D. page 173 and also another judgment, dated 02-04-2007, in W.P.No.6692 of 2007 and consequently, direct respondents herein not to demolish and continue to demolish the above referred premises without initiating the Land Acquisition proceedings strictly in accordance with the spirit and direction contained in the above referred judgment.

3. It is the case of the petitioner that he is the tenant in respect of the premises bearing Nos.8-3-168/6 and 8-3-168/7 which are ground floor shop and first floor portion covered by No.8-3-168/11 situated at Erragadda, Hyderabad since 1972. Whileso, the Municipal Corporation, Hyderabad has taken up the road widening

programme and in that context the owner has already given consent.

4. The only grievance of the petitioner is that the tenants are also interested parties and therefore without giving any notice to the tenants at the consent of the owner, the land cannot be taken away or acquired. It is stated that if the tenant objects the same, the only course open for the respondent is to initiate action under Section 146 or 147 of the Hyderabad Municipal Corporation Act
(for brevity, 'the Act') in which case the tenant is also entitled for notice.

5. Having regard to the facts and circumstances respondents are directed to follow the due procedure prescribed in law under Section 146 or 147 of the Act before acquiring or dispossessing the land either by way of compulsory acquisition or by way of private negotiations.

6. Accordingly, Writ Petition is disposed of. No order as to costs.

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V.ESWARAIAH,J

18th June, 2007.

Note:

Furnish C.C. of the order
within three days.

B/o

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